**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE SIDE**

**WRIT PETITION NO. 334 OF 2007**

Shivappa Ningappa Joure .... Petitioner

versus

Divisional Controller
Maharashtra State Road,Solapur..... Respondent.

Shri Ameya Tamhane i/b Seema sarnaik for the petitioner

**CORAM; A.P. DESHPANDE, J.**
**DATED; 5TH JUNE, 2007**

**P.C.;**

1. The petitioner was working as a driver in the employment of the respondent MSRTC. While driving the bus, an accident had occured resulting in death of three persons, as the bus collided with a tempo truck. The petitioner was proceeded againstin a departmental enquiry on the charges of misconduct of having driven the vehicle rashly, negligently and in high speed causing loss to the corporation. It was found in the enquiry that the petitioner is guilty of misconduct and proceeding on that basis the petitioner came to be terminated from service.

2. Aggrieved by the punishment, the petitioner filed a complaint ULP before the Labour Court. The Labour

Court held that the enquiry was just and fair and that the findings recorded by the enquiry officer were based on evidence and material on record. After recording the finding that the respondent is not guilty of indulging in an unfair labour practice, the complaint came to be dismissed.

3. The said order was challenged by filing a revision before the Industrial Court. The Industrial court concurred with the view taken by the Labour Court and held that the respondent is not guilty of unfair labour practice. The petitioner has mainly relied upon his acquittal in the criminal case at a later point of time. The Courts below have rightly held that the findings in the departmental enquiry needs to be based on preponderence of probabilities whereas in a criminal trial the burden is to establish the guilt beyond reasonable doubt. The acquittal in the criminal case cannot result in reversal of the order of punishment passed in the departmental enquiry.

4. Perused the impugned order. No interference is called for in this matter. Writ petition is therefore summarily dismissed.

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